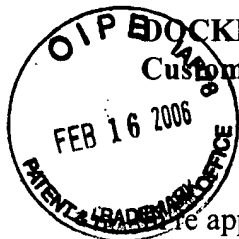


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DOCKET NO.: PRES06-00217

Customer No.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

The application of : Ronald A. Schachar

Application No. : 09/940,722

Filed : August 27, 2001

For : SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA
AND OTHER EYE DISORDERS

Group No. : 3738

Examiner : David H. Willse

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

The undersigned hereby certifies that the following documents:

1. Petition to Withdraw Holding of Abandonment;
2. Copy of docket report;
3. Declaration of William A. Munck;
4. Declaration of Terri L. Massengale; and
5. A return postcard

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 13, 2006.

Date: Feb 13, 2006

Kathy Hamilton
Mailer

Date: Feb 13, 2006

William A. Munck
William A. Munck
Reg. No. 39,308

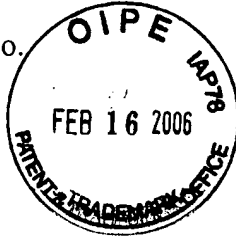
P.O. Drawer 800889
Dallas, Texas 75380
Phone: (972) 628-3600
Fax: (972) 628-3616
E-mail: wmunck@davismunck.com

DOCKET NO.: PRES06-00217
Customer No.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of : Ronald A. Schachar
Application No. : 09/940,722
Filing Date : August 27, 2001
Title : SCLERAL PROSTHESIS FOR TREATMENT OF
PRESBYOPIA AND OTHER EYE DISORDERS
Examiner : David H. Willse
Group Art Unit : 3738



Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

In response to the Notice of Abandonment mailed December 19, 2005, Applicant submits this Petition. The Notice of Abandonment notes that no response was filed in connection with an Office Action mailed from the Patent Office on May 7, 2004. However, the Applicant never received the Office Action mailed May 7, 2004 in connection with this application. A copy of our docket report in connection with this application is attached for your reference. As you can see on the docket report, this Office Action was ever received or docketed.

In further support of this Petition, attached is a Declaration of William A. Munck and a Declaration of Terri L. Massengale.

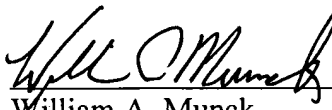
While no fee is believed to be due for the filing of this Petition, the Commissioner is authorized to charge any additional fees or credit any overpayment of fees due by virtue of this Petition to Deposit Account No. 50-0208.

If the Examiner requires any further assistance in this matter, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at wmunck@davismunck.com.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: Feb 13, 2006



William A. Munck
Registration No. 39,308

Docket Clerk
P.O. Drawer 800889
Dallas, Texas 75380
Tel: (972) 628-3600
Fax: (972) 628-3616
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Patent: PRES06-00217, United States, Regular, National, Continuation

Patent Data

Docket Number	PRES06-00217	Attorney	Munck, William A.
Country	United States	Agent	
Case Type	Regular	Client\Division	Presby Corp.
Relation Type	Continuation	Current Owner	ReFocus Ocular, Inc.
Filing Type	National	Previous Owner	RAS Holding Corp.
Filing Number		Text #10	
Status	Filed	First Filing Date	10/8/1997
Sub Status	Published	Sub Status Date	5/2/2002
Parent Country	United States	Parent Filing Date	4/16/1998
Parent Number	6,280,468	Parent Grant Date	8/28/2001
Application Number	09/940,722	Application Date	8/27/2001
Patent Number		Grant Date	
Publication Number	US-20020026239	Publication Date	2/28/2002
Assigned		Ind. Claims\Designs	
Convention Type		Total Claims	
Custom Code #1		TotalClasses	
TaxAgent		ConfirmationNumber	
Operating Group		Tax Base Date	
Custom Party #1		Next Tax Date	
Custom Party #2		Expiration Date	
Custom Party #3		Custom Text #1	
Custom Party #4		Custom Date #1	
Custom Party #5		Custom Text #2	
Custom Party #6		Custom Date #2	
Custom Party #7		Custom Text #3	
Custom Party #8		Custom Date #3	
Agent Ref No		Custom Text #4	
Custom Code #2		Custom Date #4	
Custom Code #3		Text #5	
Custom Code #4		Text #6	
Custom Code #5		Text #7	
Custom Code #6		Text #8	
Custom Code #7		Text #9	
Customer Code	N7PP	Customer Name	Novakov Davis

Title

SCLERAL PROSTHESIS FOR TREATMENT OF PRESBYOPIA AND OTHER EYE DISORDERS

Description

Current Expense Information

Expenses

Expense	Amount	Expense Date	Invoice Number
Filing Fee	710	8/27/2001	
Extension of Time Fee	930	5/27/2003	
Terminal Disclaimer Fee	110	5/27/2003	
Notice of Appeal Fee	330	10/17/2003	

RCE Filing Fee	1428	12/22/2003
Assignmt. Recordal Fee	40	1/21/2005
Assignmt. Recordal Fee	40	1/21/2005
Assignmt. Recordal Fee	40	1/21/2005

Other Case-Related Information

Actions

Action	Action Due Date	Taken Date	Deadline Date	Completed Date	Responsible Atty #1	Responsible Atty #2	Action Notes
Final Rejection Filed				12/22/2003			
Response to Provoke Advisory Action				9/17/2003			
Notice of Appeal				10/17/2003			Advisory Action for Notice of Appeal dated 10/31/03.
Resp. to 1st OA Filed				5/27/2003			
Resp. to Notice of Non-Compliance				2/3/2004			Notice of non-compliance dated 01/06/04.
Request for Continued Examination				12/22/2003			
Final Rejection Mailed				7/17/2003			
Published				2/28/2002			
Advisory Action Due				9/30/2003			
No Foreign Filing							
IDS Not Applicable							
Restriction Mail Date				3/15/2004			
Restriction Requirement Due				4/15/2004			
Response to Restriction Requirement				2/24/2005			Substitute Response to Restriction and Letter to Director to accept Substitute Response and notification of nonreceipt of Notice of NonCompliance .
File Assignment				1/21/2005			
Status Inquiry Due				12/1/2005			
Notice of Abandonment Rec'd				12/19/2005			
Abandon?	2/19/2006						

Inventors

Inventor Name	Assignment Date
---------------	-----------------

Ronald A. Schachar

CreateUser: MDC

UpdateUser: dbo

CreateDate: 5/2/2002

UpdateDate: 12/29/2005

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DOCKET NO.: PRES06-00217
Customer No.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Ronald A. Schachar
Application No.: 09/940,722
Filed: August 27, 2001
For: SCLERAL PROSTHESIS FOR TREATMENT OF
PRESBYOPIA AND OTHER EYE DISORDERS
Group No.: 3738
Examiner: David H. Willse

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF WILLIAM A. MUNCK

I, William A. Munck, hereby declare:

1. I am the Chairman of the Intellectual Property section at the law firm of Davis Munck, P.C. and I am the attorney for Applicant in the above-identified patent application.
2. We received a Notice of Abandonment from the Patent Office dated December 19, 2005 for failure to respond to an Office Action dated May 7, 2004.
3. When correspondence is received from the Patent Office it is entered into our docket system and the original correspondence is filed into its file jacket with its respective file history.
4. After receiving the Notice of Abandonment, I searched our file history and reviewed our docket system in connection with the above-identified patent application and it appears that we did not receive the Office Action mailed May 7, 2004 in connection with this matter.

5. If an Office Action had been received in our Office in connection with the above-identified application, the docket report would have been updated to reflect an "Office Action" listed under the Action column with the Patent Office mail date listed under the "Completed Date" column and the response due date would have been automatically generated and listed under the "Action Due Date" column when the report was saved.
6. As you can see by the docket report that is filed along with the Petition, to date we have not received the Office Action mailed May 7, 2004 in connection with the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Feb 13, 2006



William A. Munck

DOCKET NO.: PRES06-00217
Customer No.: 23990



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Application No.: 09/940,722
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF TERRI L. MASSENGALE

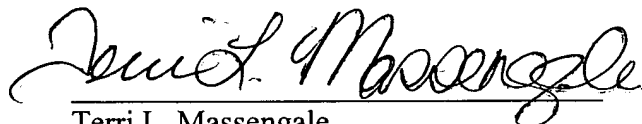
I, Terri L. Massengale, hereby declare:

1. I am the senior paralegal in the Intellectual Property Section at the law firm of Davis Munck, P.C.
2. I regularly receive and docket all correspondence regarding Intellectual Property matters handled by the firm of Davis Munck, P.C.
3. When correspondence is received from the Patent Office, I enter it into our docket system and I place the original correspondence into its file jacket with its respective file history. The file is then given to the attorney for handling.
4. I regularly run a docket report each week that lists all matters due for the upcoming month.

3. To date, I have not received the Office Action mailed May 7, 2004 in connection with the above-identified patent application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 2-09-06


Terri L. Massengale